

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 18 2006

CARLOS GARCIA AGUAYO; KARLA
MURILLO BELTRAN; KARLA
GARCIA MURILLO; CARLOS GARCIA
MURILLO,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74594

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Agency Nos. A95-451-056
A95-451-057
A95-451-058
A95-451-059

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Carlos Garcia Aguayo, Karla Murillo Beltran, and their two minor children,
all natives and citizens of Mexico, petition pro se for review of the Board of

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

Immigration Appeals’ (“BIA”) order dismissing their appeal for lack of jurisdiction on the ground that they had waived their right to appeal. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. Reviewing de novo, *U.S. v. Garza-Sanchez*, 217 F.3d 806, 808 (9th Cir. 2000), we deny in part and dismiss in part the petition for review.

Although it is unclear from the record whether the petitioners’ waiver of appeal was considered and intelligent, the petitioners have not established a violation of due process because they have not demonstrated that any prejudice resulted from the waiver. *See U.S. v. Ubaldo-Figueroa*, 364 F.3d 1042, 1050 (9th Cir. 2004) (alien must show plausible grounds for relief to establish prejudice).

To the extent the petitioners allege ineffective assistance by their former counsel, the claim was not exhausted and we lack jurisdiction to review it. *See Garcia-Martinez v. Ashcroft*, 371 F.3d 1066, 1079 n.5 (9th Cir. 2004). The petitioners’ contention that the BIA’s decision is a “boilerplate” decision is unpersuasive. *See Ghaly v. INS*, 58 F.3d 1425, 1430 (9th Cir. 1995).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.